

REMARKS

Claims 1-16 remain pending in this application for which applicant seeks reconsideration.

Art Rejection

Claims 1-16 were rejected under 35 U.S.C. § 103(a) as unpatentable over Yamanaka (USPGP 2001/0016834) in view of the Beatnik article (*Beatnik Partners With Ex'pression to Advance the Art of Web Sonification*). Applicant traverses this rejection because these references still would not have disclosed or taught the claimed invention.

The examiner agrees that Yamanaka does not disclose or teach that the holder or user can create/distribute the secondary work, namely a modified version of the original content. The examiner thus relied upon the Beatnik article for the proposition that modifying (remixing) a song by one user who is different from the identified content proprietor is known. In this respect, the examiner asserts that it would have been obvious for Yamanaka to include the modified digital music as taught by Beatnik. The examiner also asserts that it would have been obvious to include the ownership information.

Applicant submits that the combination urged by the examiner would not have led to the claimed invention because the examiner fails to provide any support for the examiner's contention that registering the modified music with the ownership information would have been obvious in the environment of Yamanaka. Indeed, Beatnik merely discloses that a song can be remixed by a person who is not the owner of the music.

Remixing music is well known. Applicant is not disputing this aspect. The issue germane to patentability is not whether modifying a song by a person who is not the owner/writer is known, but rather whether it would have been obvious for one of ordinary skill in the art to incorporate a scheme that allows the user of Yamanaka's system to register and distribute the modified song while allocating part of the collected advertisement fees to the owner of the modified song. In Yamanaka, only the owner (i.e., holder) of the song is allowed to register and distribute. There simply is no teaching anywhere for allowing the users to register and distribute music contents in Yamanaka. Specifically, the combination still would not have disclosed or taught handling the remixed music while protecting the proprietor of the original work, namely permitting the modified music (together with status information indicating that the sent digital content is subject to the legal protection and identifying the content proprietor) to be received from any of the user, registering the received modified music, receiving a request to deliver the same from another user, and delivering the same to the another user, and allocating

at least part of the advertisement fees collected from the subscribing advertisers to the content proprietor of the registered digital content identified by the status information, as set forth in the pending claims. Accordingly, applicant submits that the combination urged by the examiner still would not have taught the claimed invention.

Conclusion

Applicant submits that claims 1-16 patentably distinguish over the applied references and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicant urges the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

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16 DECEMBER 2008

DATE

/Lyle Kimms/

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